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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

WALTER

Atty. Ref.: 265-97; Confirmation No. 2093

Appl. No. 09/807,617

TC/A.U. 3764

Filed: May 14, 2001

Examiner: J. Donnelly

For: REHABILITATION DEVICE

\* \* \* \* \*

June 14, 2004

RECEIVED  
JUN 21 2004  
TECHNOLOGY CENTER R3700

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**AMENDMENT AFTER FINAL REJECTION  
AND REQUEST FOR WITHDRAWAL OF FINALITY**

In response to the Office Action dated February 11, 2004\*, please amend the  
above-identified patent application as follows:

**Amendments to the Claims** are reflected in the listing of claims which begins on

08/05/2004 DBROOKS 00000004 141140 09807617  
page 2.

01 FC:2253 475.00 DA

**Remarks/Arguments** begin on page 7.

\* Since the cover sheet of the Office Action does NOT set a shortened statutory period for reply,  
no fee is believed due; however, any deficiency in fees due may be charged to Deposit Account  
No. 14-1140.

Adjustment date: 10/26/2004 SDIRETA1  
08/05/2004 DBROOKS 00000004 141140 09807617  
01 FC:2253 475.00 CR

853117



PATENT MAINTENANCE  
DIVISION

8TH FLOOR  
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ARLINGTON, VIRGINIA 22201-4714

2004 SEP 17 AM 10:30 ATTORNEYS AT LAW

September 10, 2004

NIXON & VANDERHYE P.C.

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Subject: **REQUEST FOR REFUND TO DEPOSIT ACCOUNT**  
Deposit Account No. 14-1140  
Statement Date: August, 2004  
Date Posted: August 5, 2004  
Control No.: 09807617  
Fee Code: 2253; \$475.00  
Our Ref.: 265-97

To whom it may concern:

Regarding the Monthly Statement of Deposit Account dated August 2004 (copy attached), we believe there is a fee related error therein, which has resulted in a charge to our Deposit Account that appears to be unwarranted. Please refer to the following explanation and issue a refund as soon as possible.

No shortened statutory period for reply to the Office Action dated February 11, 2004 was specified, therefore, the maximum statutory period of six (6) months applies. Applicant should not have been charged \$475.00 for a three-month extension of time. Please credit our Deposit Account in the amount of \$475.00.

Thank you for your time and assistance, and if you have any questions, please do not hesitate to call me at the above number.

Very truly yours,

NIXON & VANDERHYE P.C.

By: Alan M. Kagen

Alan M. Kagen

AMK:jls  
Enclosure



# Office Action Summary

Application No.

Examiner

Jerome W Donnelly

Applicant(s)

Art Unit

3784

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO [REDACTED] FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- Failure to reply within the set or extended period for reply will, by itself, cause the application to become ABANDONED (37 U.S.C. § 435).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10-17-03
- 2) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 25-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed. 1-
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected. 1-28, 30-33, 38-42, 44, 45
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to. 29, 34, 35, 36, 37, 43 and 46
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(1) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-048)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_



United States  
Patent and  
Trademark Office

### Deposit Account Statement

Requested Statement Month:

August 2004

Deposit Account Number:

142140

Name:

NORMAN WANDERHYTE P.C.

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VA

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22201-4714

| DATE  | SEQ  | POSTING<br>REF TXT | ATTORNEY<br>DOCKET<br>NBR | FEE<br>CODE | AMT        | BAL         |
|-------|------|--------------------|---------------------------|-------------|------------|-------------|
| 08/02 | 2    | 10048619           | 124-920 ARC               | 1806        | \$180.00   | \$16,785.98 |
| 08/02 | 6    | 60500691           | 4147-393                  | 1807        | \$50.00    | \$16,735.98 |
| 08/02 | 8    | 09938560           | 124-890                   | 1251        | \$110.00   | \$16,625.98 |
| 08/02 | 45   | REPLENISHMENT      |                           | 9204        | \$3,000.00 | \$21,625.98 |
| 08/02 | 57   | 10783086           | 4416-20 HWB               | 9204        | \$867.00   | \$22,492.98 |
| 08/03 | 13   | 10393396           | 2466-112                  | 18021       | \$40.00    | \$22,452.98 |
| 08/03 | 33   | 09944501           | 09792900-513              | 1252        | \$400.00   | \$22,852.98 |
| 08/03 | 86   | 10489073           | 4062-119 LSN              | 1617        | \$130.00   | \$22,722.98 |
| 08/04 | 2    | 10487873           | 4147-62 HWB               | 1814        | \$86.00    | \$22,636.98 |
| 08/04 | 4    | 09989298           | 555-63 MJS                | 1203        | \$290.00   | \$22,346.98 |
| 08/04 | 48   | 09562857           | 4010-10000                | 1251        | \$110.00   | \$22,456.98 |
| 08/04 | 51   | 09759707           | 063030-00057              | 1201        | \$84.00    | \$22,540.98 |
| 08/04 | 1232 | 78461734           | 551-100                   | 7001        | \$40.00    | \$22,205.98 |
| 08/04 | 1249 | 78461748           | 551-100                   | 7001        | \$40.00    | \$21,870.98 |
| 08/05 | 1    | 09331808           | 317-31                    | 2801        | \$385.00   | \$21,485.98 |
| 08/05 | 2    | 09331808           | 317-31                    | 2252        | \$210.00   | \$21,275.98 |
| 08/05 | 3    | 09524272           | 2452-15 RWF               | 1801        | \$770.00   | \$20,505.98 |
| 08/05 | 4    | 09714956           | 3842-5 HWB                | 1460        | \$130.00   | \$20,375.98 |
| 08/05 | 4    | 09524272           | 2452-15 RWF               | 1253        | \$950.00   | \$19,425.98 |
| 08/06 | 1    | 10003110           | 4147-393                  | 1251        | \$40.00    | \$18,840.98 |
| 08/06 | 2    | 09866867           | 3470-35 HWB               | 1201        | \$86.00    | \$18,754.98 |
| 08/06 | 3    | 09964849           | 608-312 LLM               | 1202        | \$108.00   | \$18,646.98 |
| 08/06 | 4    | 10069049           | 540-333 SCS               | 1251        | \$110.00   | \$18,536.98 |
| 08/06 | 131  | 76043800           | 937-194 DJD               | 6004        | \$150.00   | \$18,386.98 |
| 08/06 | 132  | 76043800           | 937-194 DJD               | 6004        | \$150.00   | \$18,236.98 |
| 08/10 | 4    | 10035199           | P284145                   | 1201        | \$86.00    | \$18,150.98 |
| 08/10 | 5    | 10035199           | P284145                   | 1202        | \$234.00   | \$17,916.98 |

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